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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,925	07/23/2001	Ashar Aziz	55218-0511	4906

29989 7590 02/15/2006

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EXAMINER
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FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/911,925

**Applicant(s)**

AZIZ ET AL.

**Examiner**

Daniel S. Felten

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36, 39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36, 39 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Acknowledgements and Status of Claims***

1. Receipt of the Request for Continued Examination ("RCE") filed October 24, 2005 is acknowledged. It is acknowledged that no amendments have been made to this application with the filing of the RCE. Claims 1-36, 39 and 41 are pending in this application and are presented to be examined upon their merits.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on May 16, 2005 was resubmitted and considered by the examiner in the August 16, 2005 Office Action. The submission is in compliance with the provisions of 37 CFR 1.97.

### ***Response to Arguments***

3. Applicant's arguments filed October 24, 2005 have been fully considered but they are not persuasive. References, in determining obviousness are not read in isolation, but for what they fairly teach in combination with the prior art as a whole, and thus patent assignee's reference-by-reference attack on prior art to demonstrate non-obviousness is not persuasive. (Photoelectric sensing system) *Banner Engineering v. Tri-Tronics Co. Inc.*, 29 USPQ 1392, 1389 (CAFC 1993 unpub) citing in re *Merck* 231, USPQ 375 (CAFC 1986).

References are evaluated by what they suggest to one versed in the art, rather than their specific disclosure [see *In re Bozek*, 163 USPQ 545 (CCPA 1969)]. In this case, the primary reference shows a computerized resource accounting method and system were the resource

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usage information (e.g., utilities- electricity, gas, water, etc.,) is tracked, maintained and made available (see Crooks '773, Abstract), the secondary reference shows a computerized billing and payment authorization method (see Crooks "656, abstract).

*With respect to claim 1*, the examiner has interpreted the concept that resources may be "de-allocated" over time, from the set of one or more resources assigned to the customer and additional resources may be added to the customer from a plurality of resources to mean that the utilities (e.g., electric, gas, water, etc., ) may be diminished over time or completely cut off. An example of this is that the use of some resources (like natural gas and electricity) are seasonal. There is a greater customer need for natural gas in the winter to heat homes than in the summer. Also it is respectfully submitted that Crooks would have know and understood the aforementioned concepts, as well as the total "discontinuance" of a resource due to non-payment for the resource. Thus it would have been obvious for an artisan at the time of the invention of Crooks ~~would have~~ to reflect the change of resource from a distributed-to-customer status (allocated) to a non-distributed-to-customer status (de-allocated). It an old and well known concept of billing a customer for the use of a utility resource. Therefore it would also be obvious for an artisan to integrate the features of '656 into '773 to bill a customer for time and/or amount of usage of a utility resource and conveniently and remotely provide the user with electronic bill to pay for the used resources.

*With respect to claims 2-18*, Claims 2-18 depend from Claim 1 and therefore the reasons above apply to the depend claims as well.

*With respect to claims 19-36 and 39-41*, (see explanation for claim 1)

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF  
January 06, 2006

Daniel S Felten  
Examiner  
Art Unit 3624